

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

AKANNI AMBERSLIE,

Plaintiff,

vs.

**9:17-CV-0564
(TJM/DEP)**

**PRISONER TRANSPORT SERVICE
OF AMERICA, LLC,**

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge David E. Peebles for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that Defendant violated his civil rights during the time that Defendant transported him as a prisoner from Tennessee to Broome County, New York.

Magistrate Judge Peebles' Report-Recommendation, dkt. # 50, issued on March 4, 2019, recommends that Defendant's motion to dismiss for failure to state a claim be granted with prejudice. While Magistrate Judge Peebles finds that Defendant's motion to transfer should be denied, he finds that Plaintiff has failed in his Amended Complaint to allege facts sufficient to make it plausible that Defendant violated his right to be free of

cruel and unusual punishment during his transfer. Plaintiff does not allege, Magistrate Judge Peebles finds, any facts which could make it plausible that the conditions he experienced during his interstate transport were so severe as to constitute a constitutional violation. Magistrate Judge Peebles also concludes that Plaintiff has not plausibly alleged that Defendant acted with deliberate indifference to a serious medical need. Finally, Magistrate Judge Peebles concludes that Plaintiff has not alleged that any injuries he suffered were the result of Defendant's policy or custom. For these reasons, he recommends that the Amended Complaint be dismissed with prejudice.

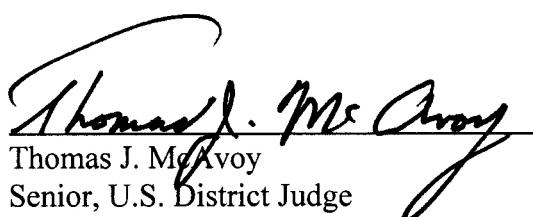
No party objected to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Judge Peebles, dkt. # 50, is hereby **ACCEPTED** and **ADOPTED**. Defendant's motion to dismiss, dkt. # 39, is hereby **GRANTED**, and Plaintiff's Amended Complaint is **DISMISSED** with prejudice. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: March 26, 2019



Thomas J. McAvoy
Senior, U.S. District Judge